



Ninety-Eighth Legislature - Second Session - 2004
Introducer's Statement of Intent
LB 1114

Chairperson: Mark Quandahl
Committee: Banking, Commerce and Insurance
Date of Hearing: February 10, 2004

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

The states have a significant role in securities regulation. Fraudulent activity often occurs at a level that eludes the applicability of federal law and, even when federal law applies, eludes the capacity of federal enforcement. Without state regulation accompanied by civil and criminal enforcement of the law in state courts, there would be no hope of redress for many victimized investors.

LB 1114 would adopt the Uniform Securities Act (2002). This important legislation is designed to coordinate federal and state securities regulation. It will give states regulatory and enforcement authority that avoids duplication of regulatory effort and blends with federal regulation and enforcement in a more efficient system for investor protection. To that end, the new act provides the following:

- **Registration of securities.** Three forms of securities registration - notice, coordination and qualification - clarify and simplify the process for both the regulators and the industry. The requirements give investors assurance that the marketplace will be fair, the playing field level, and the estimations of value based on real information.
- **Regulation of broker-dealers, investment advisors, their agents and representatives.** Investment professionals must register in states where they do business. Federal covered investment advisors have notice filing obligations, whereas other investment professionals are subject to more comprehensive registrations. For the most part, securities administrators are authorized to establish these requirements by rule or order.
- **Expanded enforcement powers.** Enforcement provisions are more comprehensive and include civil and criminal actions against those who perpetrate frauds through appropriate courts of law and through administrative actions such as cease and desist orders.
- **Investigatory and subpoena powers.** Securities administrators will have the power to conduct investigations, backed by subpoena powers and with the contempt powers of a court with jurisdiction.
- **Criminal penalties set by states.** The USA 2002 provides that a state sets its own criminal penalties for violations, including for basic anti-fraud provisions. Persons violating the act are subject to civil liability against any injured party. Damages and equitable relief are generally equivalent to those available in actions under federal law.

- **Investor education.** The act creates an optional fund to support investor education programs highlighting the need to help investors protect themselves against fraud.
- **Electronic filing facilitation.** The act facilitates the electronic filing of documents and the movement toward a more technologically effective system of capital formation and securities regulation.

UNIFORMITY

LB 1114, the Uniform Securities Act (2002), provides enforcement at every level to maximize effectiveness. Its provisions will provide a stronger securities regulatory framework and protections for investors. At the same time, the effort to eliminate duplication of regulation relieves the marketplace of a significant burden, keeping American securities markets the best in the world. [*Uniform Law Commissioners, “Why states should adopt the Uniform Securities Act (2002)”*]

Principal Introducer:

Senator David Landis